

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6522 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

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GUJARAT LABOUR WELFARE BOARD

Versus

PARESH RAMANLAL

Appearance:

1. Special Civil Application No. 6522 of 1999
MR CJ VIN for Petitioner No. 1
MR ANAND L SHARMA for Respondent No. 1-2
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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 02/04/2002

ORAL JUDGEMENT

#. Heard Mr.C.J.Vin, learned advocate appearing on behalf of the petitioner Board and Mr.Anand L. Sharma, learned advocate appearing on behalf of the respondent workman.

#. In the present petition, the petitioner has challenged the award passed by the labour court, Ahmedabad in Reference No.1454 / 1997 dated 22nd April, 1999. In the present petition, RULE issued by this Court on 31st August, 1999 and pending this petition, granted interim relief in terms of para 8[B] subject to provision contained in Section 17-B of the I.D.Act, 1947.

#. Learned advocate Mr.Vin has submitted that the respondent workman has obtained job by producing false certificate of scheduled caste and therefore, on that basis, the petitioner has terminated services of the respondent workman. Learned advocate Mr.Vin has submitted that this aspect of whether the caste certificate is false or not, the petitioner Board has enquired and ascertained this fact from the State Government and after due inquiry, ultimately, it was found by the State Government that this certificate is false and that is how, as per the report of the Government, it has been decided that services of the workman required to be terminated. It is further submitted that the petitioner Board in pursuance of the report which was taken into consideration to arrive at decision to terminate services of the respondent workman and accordingly, services were terminated and therefore, there is no need to give an opportunity to the respondent workman as he was in temporary service of the petitioner. Therefore, the order of termination is legal and valid and the labour court has committed clear error in granting relief in favour of the respondent workman.

#. Learned advcoate Mr.Anand L. Sharma appearing on behalf of the respondent workman has submitted that it is undisputed fact that before terminating services of the respondent workman, no departmental inquiry was held against the respondent workman, nor any reasonable opportunity was given and that is how, the order of termination is passed contrary to the principles of natural justice. Therefore, in short, submissions of Mr.Sharma that the labour court has rightly set aside the order of termination and granted relief in favour of the respondent and no error has been committed by the labour court while granting such relief.

#. I have considered submission of the learned advocates for the parties. This Court has also perused the entire award, wherefrom, it reflects that before the labour court, it was the case of the petitioner as per the written statement that the respondent workman's services came to be terminated because of the order passed by the Government and the Government has come to the conclusion

that the caste certificate in question is false and therefore, after due inquiry by the State Government, this order of termination has been passed. The second defence which was taken by the petitioner that the work of the respondent workman was not satisfactory. However, the labour court has not believed the defence of the petitioner Corporation. The respondent workman was examined before the labour court and cross examination was also held by the petitioner Board. The petitioner has not taken defence nor its defence was substantiated that the work of the respondent workman was not found to be satisfactory and therefore, his services came to be terminated without notice. The respondent workman was appointed on 28th May, 1996 and continued to work upto date of termination i.e. 19th September, 1997. However, it is noticed that the labour court has mainly examined two aspects. So far the first aspect in respect of production of false caste certificate is concerned, it amounts to misconduct and on that ground, if the services of the respondent workman required to be terminated, same could not be terminated without holding departmental inquiry and without affording reasonable opportunity to the respondent workman, then the order of termination is contrary to the principles of natural justice and therefore, such order requires to be quashed and set aside. Similarly, the labour court has considered another aspect that if working of the respondent workman is not found satisfactory, even though the petitioner ought to have held departmental inquiry and would have given reasonable opportunity to the respondent workman before terminating services of the respondent workman. The labour court has also considered that during the course of employment, there was no complaint or any complaint against the respondent workman that his work was not found satisfactory. It is also observed that though condition No.[5] is incorporated in the appointment order that if in case the work of the respondent workman is not found satisfactory, then services of the workman can be terminated without notice. However, such condition cannot be sustained and the petitioner cannot act on such condition which itself is contrary to the principles of natural justice. If the respondent workman is not working satisfactorily, then it amounts to allegation and stigma and in that case, departmental inquiry and reasonable opportunity were required, otherwise, the order of termination is contrary to the principles of natural justice. Therefore, according to my opinion, the labour court has rightly appreciated the facts which are on record and rightly come to the conclusion that termination order is contrary to the principles of natural justice. Therefore, it

clearly transpires that no error has been committed by the labour court and no procedural irregularity committed by the labour court.

#. Therefore, considering the totality of the facts and circumstances of the case, no interference of this Court under Article 226 and 227 of the Constitution is called for and hence, there is no substance in this petition. Therefore, this petition is rejected accordingly. Rule discharged. Ad-interim relief, if any, stands vacated.

Date : 2-4-2002 [H.K.Rathod, J.]

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